IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH PAUSHA 1928

WP(C).No. 90 of 2007(I)

PETITIONER:

1. V.U. JOHN,
   VADAKKAN HOUSE, VELLIKULANGARA P.O., THRISSUR.

2. P.A. YESUDAS,
   PAYYAPPILLY HOUSE, P.O. VARANDARAPPILLY,THRISSUR.

BY ADV. SRI.P.RAVINDRAN

RESPONDENTS:

1. REGIONAL TRANSPORT AUTHORITY, THRISSUR.

2. SECRETARY,
   REGIONAL TRANSPORT AUTHORITY, THRISSUR.

3. M. ABDUL JABBAR,
   NEDUMPURAKKAL HOUSE, P.O. KALLUR, THRISSUR.

R1 R2 BY GOVT. PLEADER SRI M.A.FAYAZ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN,J.

W.P.(C).NO.90 OF 2007

Dated this the 3rd day of January, 2007

JUDGMENT

The challenge made in this writ petition is against the grant of regular permit to the 3rd respondent. Petitioners are regular permit holders and they are rival traders. The Full Bench of this Court in **Binu Chacko v. RTA, Pathanamthitta (2006 (2) KLT 172(FB)** considered the issue regarding the right of such persons, who challenged the grant in favour of the new operator. Admittedly the provisions contained in the Motor Vehicles Act, 1988 do not contain in limitation in the matter of grant of regular permit. Under normal circumstances, grievance of the existing operator shall be confined to disputes relating to settlement of timings and cannot be entertained against the grant or

renewal of permit issued. Before the Full Bench, the decision reported in **D.L.Sadasiva Reddy v. P.Lalasherif (AIR 1999 Karnataka 5)** was relied on by the rival claimant to say that he has got a legal right. But the Full Bench did not agree with the contentions. On the other hand, the Full Bench agree with the view expressed in the Division Bench decisions in **Girija Devi v. K.T.Mathew (1991 (1) KLT 353)** and in **C.T.R.B.T. Co-operative Society v. Mathew Job (1992 (1) KLT 297)** and held that an existing operator will be a person aggrieved as far as settlement of timings is concerned. However, it may not be proper or expedient to to restrict the scope of the words "person aggrieved" to settlement of timings only, though under the scheme of the Act, existing operators may have in the

normal course, legal grievance against settlement of timings only. Therefore, it was also held that the Full Bench did not rule out any other grievance of a similar nature which would tilt the balance in favour of one operator and against another as a consequence of orders issued by the RTA or STA. But the applicant is required not only to establish that the order impugned suffers from illegality or impropriety of a substantial nature but also has to discharge the burden to satisfy the Tribunal that he has a legal grievance against that order, and therefore is a person aggrieved. This exercise the STAT has to do by applying its mind to the facts and circumstances of each case and this implies that the Tribunal may not throw a revision petition overboard at the threshold.

2. The above view expressed by the Full

Bench makes it abundantly clear that there will be situations where the rival claimants may have a right to challenge. But it is up to them to show that there is illegality or impropriety of a substantial nature and they have also to discharge the burden that they have legal grievance before the Tribunal and as such the writ petition cannot be entertained. If the petitioners satisfy the norms laid down by the Full Bench of this Court, necessarily they have only to approach a revisional authority for redressal of their grievance.

Without prejudice to their right as above, this writ petition is dismissed.

P.R.RAMAN,
Judge.

kcv.